Department of Homeland Security
Office of Inspector General

FEMA Should Recover $1.7 Million of Public Assistance Grant Funds Awarded to Audubon Commission, New Orleans, Louisiana

DD-13-12

August 2013

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MEMORANDUM FOR: George A. Robinson
Regional Administrator, Region VI
Federal Emergency Management Agency

FROM: John V. Kelly
Assistant Inspector General
Office of Emergency Management Oversight

SUBJECT: *FEMA Should Recover $1.7 Million of Public Assistance Grant Funds Awarded to Audubon Commission, New Orleans, Louisiana*
FEMA Disaster Number 1603-DR-LA
Audit Report Number DD-13-12

We audited Public Assistance grant funds awarded to the Audubon Commission (Commission) in New Orleans, Louisiana (Public Assistance Identification Number 071-U76DM-00). Our audit objective was to determine whether the Commission accounted for and expended Federal Emergency Management Agency (FEMA) grant funds according to Federal regulations and FEMA guidelines.

The Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP), a FEMA grantee, awarded the Commission $12.3 million for damages resulting from Hurricane Katrina that occurred on August 29, 2005. The award provided 100 percent funding for 37 large and 44 small projects.[1] The audit covered the period August 29, 2005, through May 1, 2012, the cutoff date of our audit, and included a review of 24 large and 18 small projects totaling $10.3 million, or 83.7 percent of the total award, and a limited review of labor cost claims for three additional projects (see Exhibit, Schedule of Projects Audited and Questioned Costs).[2] As of our cutoff date, the Commission had claimed $2.2 million, but had not completed all projects.

[1] Federal regulations in effect at the time of the disaster set the large project threshold at $55,500.

[2] We audited the gross amount of $11.6 million awarded before reductions for insurance.

Table 1 shows the gross and net award amounts before and after reductions for insurance for all projects and for those in our audit scope.

Table 1: Gross and Net Award Amounts

	Gross Award Amount	Insurance Reductions	Net Award Amount
All Projects	$14,516,039	$(2,218,686)	$12,297,353
Audit Scope	$11,618,513	$(1,350,404)	$10,268,109
Limited Review	$ 342,683	$(0)	$ 342,683

During the initial phase of our audit we identified eligibility issues on some of the Commission's projects that required FEMA's immediate attention. As such, we issued a Management Advisory Report recommending that FEMA address specific issues regarding the Commission's legal responsibility for repairs at the Audubon Nature Center on 29 of the 45 (27 large and 18 small) projects in our audit scope. In addition, we also recommended that FEMA address the fact that the Commission had not started 20 of the 29 Audubon Nature Center projects.[3] This report addresses additional findings on the 45 projects in our audit scope.

We conducted this performance audit between May 2012 and June 2013 pursuant to the *Inspector General Act of 1978*, as amended, and according to generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based upon our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based upon our audit objective. We conducted this audit by applying the statutes, regulations, and FEMA policies and guidelines in effect at the time of the disaster.

We interviewed FEMA, GOHSEP, and Commission officials; reviewed judgmentally selected samples of project costs (generally based on dollar value); and performed other procedures considered necessary to accomplish our objective. We did not assess the adequacy of the Commission's internal controls applicable to grant activities because it was not necessary to accomplish our audit objective. We did, however, gain an understanding of the Commission's method of accounting for disaster-related costs and its procurement policies and procedures.

[3] DD-13-05, *FEMA Should Disallow $7.6 Million in Public Assistance Grant Funds Awarded to the Audubon Commission, New Orleans, Louisiana*, dated January 25, 2013.

BACKGROUND

The Commission is a component of the City of New Orleans (City) that the City authorizes to administer various museum and park facilities. These facilities include Audubon Park, Audubon Zoo, Aquarium of the Americas, Woldenberg Riverfront Park, and several other facilities. The Commission carries out its administration of the facilities through a management agreement with the Audubon Nature Institute (Institute). The Institute is a private-nonprofit organization that directly operates the various facilities in the New Orleans area on behalf of the Commission.

RESULTS OF AUDIT

The Commission accounted for Public Assistance funds on a project-by-project basis as required by Federal regulations and FEMA guidelines. However, the Commission claimed $427,807 of ineligible labor costs for debris removal and emergency protective measures. In addition, FEMA needs to complete the allocation of approximately $1.2 million of the Commission's insurance proceeds and correct an inadvertent $76,800 allocation error on the Commission's insurance proceeds. FEMA should also deobligate $142,697 of unused funds on completed projects and put the funds to better use.

Therefore, FEMA should disallow $1.7 million consisting of ineligible labor, unallocated insurance, and an allocation error; and deobligate $142,697 of funds that should be put to better use (see Exhibit, Schedule of Projects Audited and Questioned Costs).

Finding A: Ineligible Labor Costs

The Commission claimed $427,807 for ineligible straight-time labor costs for debris removal (Category A) and emergency protective measures (Category B). Federal regulations at 44 Code of Federal Regulations (CFR) 206.228(a)(4) state that the "straight- or regular-time salaries and benefits of a subgrantee's permanently employed personnel are not eligible in calculating the cost of eligible work under sections 403 and 407 of the *Stafford Act*, 42 U.S.C. 5170b and 5173." Section 403 of the *Stafford Act* is for "assistance essential to meeting immediate threats to life and property"; and section 407 is for debris removal. Additionally, Commission officials told us that for Hurricane Isaac, which occurred August 28, 2012, FEMA officials specifically told them that the Commission is eligible for reimbursement of only overtime costs on similar claims. We verified with FEMA officials that, for Hurricane Isaac, FEMA wrote the projects to approve only overtime for the Commission's labor costs for Categories A and B work, thus indicating that FEMA's decision was to treat the Institute's employees as the Commission's force account labor.

Employees of the Institute performed the debris removal and emergency protective measures for the Commission. Institute employees normally carry out the operations of the various Commission facilities. In essence, Institute employees act as the Commission's workforce (i.e., force account labor), and FEMA defines force account labor as work performed by the applicant's own workforce. The Commission categorized part of the straight-time labor as contract costs ($244,927) and part as force account labor costs ($182,880). Regardless of which claim category the Commission used, the disaster work represents work performed by its force account labor because the Institute's employees perform as the Commission's force account labor, and the costs of the straight-time labor for Categories A and B work are therefore ineligible under FEMA guidance. Further, if these workers were contractors, rather than employees, we would question as ineligible all of the labor charges—both straight time and overtime—because Commission officials did not solicit competitive bids for the work or follow any Federal procurement regulations in awarding a contract for this work.

Commission officials said that after they submitted initial claims as force account labor, GOHSEP representatives instructed them to submit the costs as contract labor rather than force account labor. Commission officials also said that GOHSEP representatives told them that the existing Audubon management agreement with the Institute permitted them to categorize these costs as contract work and claim both straight-time and overtime labor costs. We disagree with GOHSEP's interpretation that the Institute labor was contract labor because there was no separate contract or agreement specifically for the work. Institute employees performed work for the Commission, just as they always had. Therefore, we recommend that FEMA disallow $427,807 of ineligible straight-time labor costs.

Finding B: Insurance Allocations

FEMA should complete its insurance review, allocate the remaining $1,238,599 in applicable insurance proceeds to the Commission's projects, and disallow those costs as ineligible. The Commission received $2.78 million in insurance proceeds for property damages. However, FEMA has allocated only $1.54 million in actual and anticipated insurance proceeds to the Commission's projects. Federal regulations at 44 CFR 206.253(a) require that eligible costs be reduced by the actual amount of insurance proceeds relating to the eligible costs. FEMA officials explained that they did not complete the allocations because there were pending project versions that required insurance review. FEMA officials said that they will have the final allocation once they complete all the versions.

Finding C: Insurance Allocation Error

FEMA inadvertently made an error in allocating insurance proceeds to Project 13678 that resulted in a $76,800 overstatement of the total project obligation. We communicated our observation to FEMA officials and they deobligated the costs. Therefore, we consider this finding and the related recommendation to be resolved and closed. No further action is required from FEMA.

Finding D: Unused Funds

The Commission completed eight large projects and claimed $739,392, which was $142,697 less than the total amount that FEMA estimated and approved for the eight projects. The Commission completed all the work on the projects by 2010 and does not plan to claim any additional costs. Therefore, the remaining funds are unneeded and FEMA should deobligate these unused funds and put them to better use.

Other Matters

GOHSEP paid the Commission $188,965 on five large projects without requiring any supporting documentation. Of this amount, GOHSEP identified $158,752 as “Undocumented Advances” and $30,213 as “Unknown Expenditures.” Commission officials stated that they had not requested these payments and had not received any explanation as to why GOHSEP made these payments. Commission officials identified these as “erroneous” payments and segregated these funds in their accounting records. In April 2012, Commission officials submitted a letter to GOHSEP formally requesting explanations of various payments. In April 2013, GOHSEP responded, stating that FEMA originally designated these projects as small projects after National Flood Insurance Program (NFIP) flood insurance reductions, and that small project grant funds were disbursed upon obligation. GOHSEP added that through subsequent revisions the projects were designated as large projects and that Audubon must submit documentation to support all project costs, including the previous payments.

FEMA designates project size based on the approved estimate of “eligible costs” compared with the large project threshold.[4] “Eligible costs” represent the estimate of total costs anticipated for the project that are eligible for reimbursement. Total costs do not include insurance reductions. As such, grantees should not disburse grant funds to applicants on projects with estimated total eligible costs <u>before</u> insurance reductions that exceed the large project threshold. During our review of these payments, we determined that GOHSEP made the $188,965 payments on projects with total costs in excess of the large project threshold.

In our Management Advisory Report, we identified the need for FEMA and GOHSEP to improve grant management activities.[5] The payments that GOHSEP made without supporting documentation or a request from the Commission are another example of how GOHSEP needs

[4] Federal regulations in effect at the time of the disaster set the large project threshold at $55,500.
[5] DD-13-05, *FEMA Should Disallow $7.6 Million in Public Assistance Grant Funds Awarded to the Audubon Commission, New Orleans, Louisiana*, dated January 25, 2013.

to improve its grant management. GOHSEP must review its processes and improve those that permit these types of payments to occur. We make no recommendations regarding GOHSEP's grant management in this report because, in addition to the recommendations on grant management mentioned above, we have commented and recommended in numerous other reports that FEMA require GOHSEP to implement policies and procedures to improve its grant management.

RECOMMENDATIONS

We recommend that the Regional Administrator, FEMA Region VI:

Recommendation #1: Disallow $427,807 of ineligible force account labor costs (finding A).

Recommendation #2: Complete the insurance review and allocate $1,238,599 of unapplied insurance proceeds to the total cost of the Commission's projects and disallow those costs as ineligible (finding B).

Recommendation #3: Deobligate the incorrectly allocated insurance proceeds of $76,800 (finding C) and put these funds to better use. FEMA deobligated these costs during our audit; therefore, we consider this recommendation to be resolved and closed. No further action is required from FEMA.

Recommendation #4: Deobligate $142,697 of unused and unneeded amounts and put these funds to better use (finding D).

DISCUSSION WITH MANAGEMENT AND AUDIT FOLLOWUP

We discussed the results of our audit with Commission officials during our audit and included their comments in this report, as appropriate. We also provided a draft report in advance to FEMA, GOHSEP, and Commission officials and discussed it at exit conferences held with FEMA, GOHSEP, and Commission officials on June 18, 2013. FEMA, GOHSEP, and Commission officials generally agreed with our findings and recommendations.

Within 90 days of the date of this memorandum, please provide our office with a written response that includes your (1) agreement or disagreement, (2) corrective action plan, and (3) target completion date for each recommendation. Also, please include responsible parties and any other supporting documentation necessary to inform us about the current status of the recommendation. Until we receive and evaluate your response, we will consider the recommendations open and unresolved.

Consistent with our responsibility under the *Inspector General Act*, we will provide copies of our report to appropriate congressional committees with oversight and appropriation responsibility over the Department of Homeland Security. We will post the report on our website for public dissemination.

Major contributors to this report are Tonda Hadley, Acting Deputy Inspector General; Paige Hamrick, Audit Manager; and John Polledo, Senior Auditor.

Please call me with any questions at (202) 254-4100 or your staff may call Chris Dodd, Acting Director, Central Regional Office, at (214) 436-5200.

Exhibit

Schedule of Projects Audited and Questioned Costs

Project Number	Project Category[6]	Net Award Amount	Ineligible Costs (Finding A)	Allocation Error (Finding C)	Total Questioned Costs	To Be Deobligated (Finding D)[7]
Audit Scope Projects:						
13678	E	$ 240,161	$ 0	$76,800	$ 76,800	$ 0
6868	B	232,372	150,491	0	150,491	0
11548	A	198,020	151,605	0	151,605	2,410
3716	G	144,620	0	0	0	13,650
18623	G	70,427	0	0	0	7,036
14265	B	63,779	0	0	0	15,036
13552	E	62,560	0	0	0	303
35 Other Projects Audited	various	9,256,170	0	0	0	0
Totals for Audit Scope		$10,268,109	$302,096	$76,800	$ 378,896	$ 38,435
Limited Review for Labor Cost Claims:						
13522	B	195,885	65,914	0	65,914	38,329
3710	A	83,886	28,522	0	28,522	55,364
6847	B	62,912	31,275	0	31,275	10,569
Totals for Limited Review		342,683	$125,711	0	$ 125,711	$104,262
Insurance Proceeds Not Allocated (finding B)					1,238,599	
Grand Totals		$10,610,792	$427,807	$76,800	$1,743,206	$142,697

[6] FEMA classifies disaster-related work by type: debris removal (Category A), emergency protective measures (Category B), and permanent work (Categories C through G).
[7] After the start of our audit, FEMA deobligated the unused funds for projects 3710 ($55,364) and 13522 ($38,329).

Appendix

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